

REMARKS

Rejection of Claims 4, 6-9, and 13-19 under 35 U.S.C. §103(a)

The Examiner has rejected Claims 4, 6-9, and 13-19 under 35 U.S.C. §103(a) as being unpatentable over Jameson (U.S. 5,395,148) in view of Lantz (U.S. 1,927,873). In particular, with respect to the various claims, the Examiner has asserted that it would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the apparatus of Jameson to include various features taught by Lantz.

Applicants respectfully disagree with this assertion, and submit that, according to MPEP §2413.01, "a proposed modification cannot render the prior art unsatisfactory for its intended purpose or change the principle of operation of a reference."

Jameson

Jameson teaches a device for sweeping a "floor, such as the area around a metal turning lathe in a machine shop," (col. 2, lines 12-14). Thus, one can assume that the material is, at least in some instances, to be collected off a hard floor. Jameson describes his invention as an improvement over magnetic sweepers in which a plurality of magnets are mounted as a tubular axle between two wheels such that the sweeper can be rolled across a surface, attracting particles to the surface of the tube. Jameson states that, "The purpose of this invention is to maintain direct contact with the surface it is raking and sweeping." (col. 1, lines 30-32).

It is relevant to note that Jameson describes the ferro-metallic material being collected as "particles," other than a single instance in which the material is described as "debris." Thus, one can also assume that the material may, at least in some instances, include particles that are smaller than the size of a nail.

Although Jameson calls his device a "rake," Jameson does not include the single most characteristic feature of any rake, namely a head with projecting teeth, otherwise known as tines or prongs. Indeed, the addition of teeth would make the device *less* effective for the collection of metallic particles such as are found on the floor around a metal turning lathe in a machine shop, because the particles would frequently be small enough to slip through the teeth. Furthermore, the teeth would effectively hold the magnet housing up off the floor surface and would cause the device to deviate from the

inventor's stated purpose of maintaining direct contact with the surface to be swept. The modification would thus render Jameson unsatisfactory for its intended purpose.

Furthermore, every embodiment described by Jameson includes a cleaning cuff 100 that is configured to encircle and slide over the magnet housing of the device in order to push the ferro-metallic particles off the housing. This ability to slide a cuff over the housing to remove the metal particles is described as an "important function of the invention," (col. 3, line 18) and aspects of the invention that work in cooperation with the cuff, in particular, the flux free zone of the magnet housing, are described as "essential to efficient operation of the invention." (col. 3, lines 13-17).

To enable the functioning of Jameson's cleaning cuff, the body of the device must be shaped to allow the cuff to slide smoothly over its surface. Furthermore, the disclosure extols the benefits of the smooth, streamlined housing. Thus, Jameson includes no suggestion or motivation to add teeth (and especially the plow-shaped teeth of Lantz, as will be explained below) to its streamlined-housing-and-cuff arrangement for the collection of ferro-metallic particles.

Finally, adding teeth to Jameson's device would add undesired weight to the device, and would thus deviate from another of Jameson's objects, namely, "to provide a magnetic rake or sweeper that is light weight and easily cleaned due to its unitary construction and streamlined housing" (col. 1, lines 61-64).

Lantz

Lantz teaches a "nonleaf holding rake." Lantz states, at the beginning of the disclosure, "The purpose of my invention is to provide a rake to which leaves will not adhere; ...that has pointed teeth that curve upwardly and forwardly in front of the curved rake body and extend rearwardly beneath the body forming short teeth on its rear surface..." (lines 4-11). Towards this end, Lantz provides ribs 5, also called shoes, which "simulate ordinary rake teeth" (line 46) but are each formed in something of a plow shape, as can be discerned in Figure 3, with ends that curve upwardly towards the front and the rear. Using Lantz's ribs 5, "The leaves which are gathered in front of the rake roll upward without adhering to the body because the projecting ribs 4 prevent this,

and the small leaves will not pass through beneath the body, but the grass can freely pass between the shoes 5 and beneath the edge 16" (lines 93-98).

The addition of Jameson's magnets to the rake taught by Lantz would not in any way enhance the non-sticking operation of the rake with respect to leaves, and, indeed, if ferro-metallic materials were interspersed amongst the leaves being raked, might even impede the nonleaf holding function of the rake by catching some of the leaves in between the materials and the rake. Moreover, the addition of magnets would be counter-intuitive, because the function of magnets is to attract, while the stated purpose of Lantz is to ensure that leaves do *not* adhere to his rake.

Summary

For the reasons given above, Applicants submit that the combination of Jameson and Lantz in order to establish obviousness of the current invention is improper. Combining the references would render each of the references unsatisfactory for its intended purpose and change the principle of its operation. Applicants, therefore, respectfully request that the rejection of Claims 4, 6-9, and 13-19 be withdrawn.

Appl. No. : 10/699,485
Filed : 10/30/2003

CONCLUSION

In view of the foregoing remarks, Applicants submit that the application is in condition for allowance and respectfully request the same. If, however, some issue remains that the Examiner feels can be addressed by Examiner's amendment, the Examiner is cordially invited to call the undersigned for authorization.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: April 11, 2006

By: Nira Brand
Nira Brand
Registration No. 52,648
Agent of Record
Customer No. 20,995
(949) 760-0404

2503814
040506